

Hearing Date: January 18, 2023 at 10:00 a.m. (ET)

Objection Deadline: November 14, 2022

Reply Deadline: December 21, 2022

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

Adv. Pro. No. 08-01789 (CGM)

SIPA Liquidation

(Substantively Consolidated)

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC and
the Chapter 7 Estate of Bernard L. Madoff,

Plaintiff,

v.

UBS EUROPE SE, formerly known as UBS
Deutschland AG, as successor in interest to
Dresdner Bank Lateinamerika AG, and LGT BANK
(SWITZERLAND) LTD. as successor in interest to
Dresdner Bank (Schweiz) AG,

Defendants.

Adv. Proc. No. 12-01577 (CGM)

**DECLARATION OF MARSHALL R. KING IN SUPPORT OF UBS EUROPE SE'S
MOTION TO DISMISS THE AMENDED COMPLAINT**

Marshall R. King, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am an attorney duly admitted to practice before this Court and am a partner in the law firm of Gibson, Dunn & Crutcher LLP, counsel for Defendant UBS Europe SE (“**UBS Europe**”), formerly known as UBS Deutschland AG (“**UBS Deutschland**”), as purported successor in interest to Dresdner Bank Lateinamerika AG (“**DBLA**”), in the above-captioned adversary proceeding. I respectfully submit this declaration to provide the Court with true and correct copies of the documents listed below that are referenced in the Memorandum of Law in Support of UBS Europe’s Motion to Dismiss the Amended Complaint, filed concurrently herewith.

2. Annexed hereto as Exhibit 1 is a true and correct copy, together with a certified English translation, of the Hive Down Plan of Dresdner Bank Lateinamerika AG, dated April 20, 2005, which was filed in the Commercial Register of Hamburg, Germany.

3. Annexed hereto as Exhibit 2 is a true and correct copy of *The German Law on Transformation*, authored by Rüdiger Veil, and published in ISSUES AND CHALLENGES IN CORPORATE AND CAPITAL MARKET LAW: GERMANY AND EAST ASIA (2008).

4. Annexed hereto as Exhibit 3 is a true and correct copy of UBS AG’s Annual Report for the fiscal year ended December 31, 2005, as filed with the SEC on Form 20-F on March 21, 2006.

5. Annexed hereto as Exhibit 4 is a true and correct copy of the *Complaint* filed by the Securities and Exchange Commission in the action styled *SEC v. Madoff* in the U.S. District Court for the Southern District of New York, No. 08-civ-10791, on December 11, 2008 at ECF No. 1.

6. Annexed hereto as Exhibit 5 is a true and correct copy of the *Amended Complaint* filed by the Trustee in the proceeding pending in this Court styled *Picard v. Fairfield Sentry Limited*, No. 09-1239, on July 20, 2010 at ECF No. 23.

7. Annexed hereto as Exhibit 6 is a true and correct copy of the *Second Amended Complaint* filed by the Trustee in the proceeding pending in this Court styled *Picard v. Fairfield Sentry Limited*, No. 09-1239, on August 28, 2020 at ECF No. 286.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 15, 2022
New York, New York

/s/ Marshall R. King
Marshall R. King